FILED
08 AUG 25 AM 9:57

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, Plaintiff, v. **Ernesto David AGUILAR-Alfaro,** Defendant	Magistrate Docket No. 08 MJ 2614 COMPLAINT FOR VIOLATION OF: Title 8, U.S.C., Section 1326 Deported Alien Found in the United States

BY: DEPUTY

The undersigned complainant, being duly sworn, states:

On or about **August 22, 2008** within the Southern District of California, defendant, **Ernesto David AGUILAR-Alfaro,** an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT
Ismael A. Canto
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **25th** DAY OF **AUGUST 2008.**

William McCurine Jr.
UNITED STATES MAGISTRATE JUDGE

DOA
8/22/08
ECL

CONTINUATION OF COMPLAINT:
Ernesto David AGUILAR-Alfaro

PROBABLE CAUSE STATEMENT

I declare under the penalty of perjury that the following statement is true and correct:

On August 22, 2008, Border Patrol Agent R. Muyot was performing Border Patrol duties in the Chula Vista area of operations near Otay Mesa Port of Entry. At approximately 12:30 AM, Agent Muyot responded to a report from the infrared scope operator, of a group of two individuals that was heading west by the Donovan's Prison approximately one mile east of the Otay Mesa, California Port of Entry and approximately two miles north of the United States/Mexican International Boundary . Agent Muyot approached the group that was hiding behind the bush. Agent Muyot identified himself as a Border Agent and questioned each of the individuals as to their citizenship. Each of the individuals, including one later identified as the defendant, **Ernesto David AGUILAR-Alfaro**, answered "Mexico." Agent Muyot asked them if they had any immigration documents allowing them to enter or remain in the United States legally. The defendant and the other individuals answered, "No." At approximately 5:50 am, the defendant and the other individuals were placed under arrest and transported to the Chula Vista Border Patrol Station.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico** on **August 9, 2008** through **San Ysidro, California.** These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

Executed on August 23, 2008 at 09:00 am.

Ilsa M. Struve
Senior Patrol Agent

On the basis of the facts presented in the probable cause statement consisting of 2 page(s), I find probable cause to believe that the defendant named in this probable cause statement committed the offense on **August 22, 2008**, in violation of Title 8, United States Code, Section 1326.

Peter C. Lewis
United States Magistrate Judge

8/23/08 @ 10:25a.m.
Date/Time